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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,941	03/01/2002	Yukio Goto	401375	8251
23548 7590 08/24/2007 LEYDIG VOIT & MAYER, LTD 700 THIRTEENTH ST. NW SUITE 300 WASHINGTON, DC 20005-3960			EXAMINER MEYERS, MATTHEW S	
			ART UNIT 3629	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/084,941	Applicant(s) GOTO ET AL.	
	Examiner Matthew S. Meyers	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's communication on 6/5/2007, wherein claims 1-20 are currently pending.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 3/1/2002 is being considered by the examiner.

Drawings

3. Examiner thanks applicant for clearing up this informality.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubschnieder et al. (2002/0091486) (Hereinafter referred to as Hubschnieder) in view of Patel et al. (U.S. 7,043,225).

7. With respect to **Claim 1**:

Hubschnieder discloses a motor vehicle navigation system, which accounts for communication and transaction costs incurred when information (telematic information) is actually requested. Additionally, Hubschnieder also discloses an accounting mode which takes into account the type of information transmitted. This allows the system to grant a credit for driver initiated, active transmission of traffic conditions (Hubschnieder [0021]). Hubschnieder also discloses the acquisition of telematic data originating from at least one vehicle traveling along a traffic route (Hubschnieder [0001]), the system comprising:

a system node transmitting a first polling signal (Hubschnieder [0028],

"central unit"); and

a probe detector on the at least one vehicle, collecting telematic data and responsive to the first polling signal (Hubschnieder [0005], "equipped with a global positioning system (GPS)",

Hubschnieder does not explicitly disclose where the first polling signal which includes a first offer, to the vehicle, for the purchase of telematic data from the vehicle offer, and the probe detector comparing the first offer to a selling price of the telematic data the probe detector and, only if the first offer at least equals the selling price,

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transmitting an availability signal, including an assent to sale of at least some of the telematic data, to the system node (Examiner is interpreting telematics as defined below).

Free On-line Dictionary of Computing - Cite This Source

telematics

The combination of telecommunications and computing. Data communications between systems and devices.

(1995-02-07)

The Free On-line Dictionary of Computing, © 1993-2007 Denis Howe

However, Patel teaches where the first polling signal includes an offer (Patel col. 2, lines 5-34, "a wireless communication network"), which compares a first offer to a selling price of the wireless communication device (Examiner is using the definition of "probe detector" as found in applicant's specification which includes a cell phone), and only if the first offer at least equals the selling price, transmitting an availability signal, including an assent to sale of at least some of the telematic data, to the system node (Patel col. 2, lines 5-34, "In this embodiment, the availability of the wireless service is determined at the geographic region at the specified time, bandwidth, type and/or price. Terms in the response may include additional or different time, price, type of service and/or bandwidth terms for the wireless service. The terms may be negotiated between a consumer or agent for the consumer and a bandwidth provider such as a network or service provider or agent for the network or service provider.).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the motor vehicle navigation system of Hubschnieder with the method and system for brokering bandwidth in a wireless

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communication network of Patel in order to effectively negotiate the bilateral transfer of telematic information between the system and the vehicle at the best price for the consumer. This conglomeration, unbeknownst to a consumer would lower the consumer's bill by achieving the best price for the telematic information procured by his system.

8. With respect to **Claim 2**:

Patel discloses wherein the system node, upon receiving the availability signal from the probe detector, transmits a release signal to the probe detector in response, and the probe detector transmits at least some of the telematic data to the system node in response to the release signal (Patel col. 8, lines 57-64, "...if an agreement is reached...The wireless services may be requested in real-time for immediate use...").

9. With respect to **Claim 3**:

Hubschnieder discloses wherein the system node provides a content credit to the probe detector in exchange for transmission of the telematic data from the probe detector to the system node (Hubschnieder [0021], "...grant a credit for driver initiated, active transmission of traffic conditions...").

10. With respect to **Claim 4**:

Hubschnieder discloses wherein the system node transmits traffic information to the at least one vehicle in exchange for a content credit (Hubschnieder [0021], "...grant a credit for driver initiated, active transmission of traffic conditions..." and [0032], "The communication unite of the vehicle unit and the communication of the central unit are bidirectionally in contact...").

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11. With respect to **Claim 5**:

Hubschnieder discloses wherein the system node includes a predictive traffic model for forecasting traffic and providing a traffic forecast to a user interface of the at least one vehicle (Hubschnieder [0010], "Such information makes it possible for the central unit to make statistical analyses, such as for example the traffic density at particular times of the day or at particular weekdays, or traffic relations between particular locations. This information naturally is then available for future inquiries by vehicle units.").

12. With respect to **Claim 6**:

Hubschnieder discloses a telematic base exchanging telematic data with the system node and including a model for forecasting traffic based on the telematic data (Hubschnieder [0010], "Such information makes it possible for the central unit to make statistical analyses, such as for example the traffic density at particular times of the day or at particular weekdays, or traffic relations between particular locations. This information naturally is then available for future inquiries by vehicle units.").

13. With respect to **Claim 7**:

Hubschnieder discloses wherein the telematic base includes a predictive traffic model for forecasting traffic and providing a traffic forecast to a user interface of the at least one vehicle (Hubschnieder [0010], "Such information makes it possible for the central unit to make statistical analyses, such as for example the traffic density at particular times of the day or at particular weekdays, or traffic relations between

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particular locations. This information naturally is then available for future inquiries by vehicle units.”).

14. With respect to **Claim 8**:

Hubschnieder discloses a point detector fixed in location along the traffic route and collecting and supplying traffic data to the system node (Hubschnieder [0009], “Data about the current route (e.g., the start-destination relation) are transmitted to the control unit and stored in a central traffic information data memory...”).

15. With respect to **Claim 9**:

Hubschnieder discloses an enabling device on the at least one vehicle enabling reception of the first polling signal by the probe detector only when the at least one vehicle is operating (Hubschnieder [0021], It is also desirable to make it impossible for the central unit to initiate a down-link. This ensures anonymity of the vehicle and thus of its driver.”).

16. With respect to **Claim 10**:

Patel discloses wherein, if the first offer does not at least equal the selling price, the probe detector does not transmit the availability signal and the system node transmits a second polling signal with a second offer larger than the first offer (Patel col. 10, lines 63-65, “...if an agreement cannot be reached through negotiations, the No branch leads to the end of the process and no agreement is reached.”).

17. With respect to **Claim 11**:

Hubschnieder discloses a motor vehicle navigation system, which accounts for communication and transaction costs incurred when information (telematic information)

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is actually requested. Additionally, Hubschnieder also discloses an accounting mode which takes into account the type of information transmitted. This allows the system to grant a credit for driver initiated, active transmission of traffic conditions (Hubschnieder [0021]. Hubschnieder also discloses the acquisition of telematic data originating from at least one vehicle traveling along a traffic route (Hubschnieder [0001]), the system comprising:

a plurality of system nodes transmitting respective first polling signals (Hubschnieder [0028], "central unit"); and

a respective probe detector on each of the plurality of vehicles, the probe detectors being responsive to the first polling signals of the system nodes within respective reception regions of the system nodes (Hubschnieder [0005], "equipped with a global positioning system (GPS)",

Hubschnieder does not explicitly disclose where the first polling signal includes an offer to the plurality of vehicles, for purchasing telematic data from at least some of the plurality of vehicles, and the probe detectors comparing the first offers to respective selling prices of the telematic data collected by the probe detectors and only the probe detectors in which the first offers at least equal the selling prices transmit availability signals, including an assent to sale of at least some of the telematic data collected, to the system nodes sending the corresponding first polling signals.

However, Patel teaches where the first polling signal includes an offer (Patel col. 2, lines 5-34, "a wireless communication network"), which compares a first offer to a selling price of the wireless communication device (Examiner is using the definition of

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"probe detector" as found in applicant's specification which includes a cell phone), and only if the first offer at least equals the selling price, transmitting an availability signal, including an assent to sale of at least some of the telematic data, to the system node (Patel col. 2, lines 5-34, "In this embodiment, the availability of the wireless service is determined at the geographic region at the specified time, bandwidth, type and/or price. Terms in the response may include additional or different time, price, type of service and/or bandwidth terms for the wireless service. The terms may be negotiated between a consumer or agent for the consumer and a bandwidth provider such as a network or service provider or agent for the network or service provider."). Patel also teaches an assent to at least some of the telematic data, to the system nodes sending the corresponding first polling signals (Patel col. 8, lines 48-56, "The consumer may accept a service plan offered in response or...may choose to accept a lower level of resources...").

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the motor vehicle navigation system of Hubschnieder with the method and system for brokering bandwidth in a wireless communication network of Patel in order to effectively negotiate the bilateral transfer of telematic information between the system node and the vehicle at the best price for the consumer. It would also give the consumer the option of a lesser service which would adequately meet his demands. This conglomeration, unbeknownst to a consumer would lower the consumer's bill by achieving the best price for the telematic information procured by his system.

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18. With respect to **Claim 12**:

Patel discloses wherein the system nodes, upon receiving any availability signals from respective probe detectors, transmit a release signal to at least some of the probe detectors in response and may withhold transmitting release signals (Patel col. 8, lines 48-56, "The consumer may accept a service plan offered in response or...may choose to accept a lower level of resources...").

19. With respect to **Claim 13**:

Patel discloses wherein the system nodes, upon receiving the availability signals, if any, transmit second polling signals including second offers, different from the first offers, and the probe detectors receiving the second polling signal, compare the second offers to the respective selling prices, and only the probe detectors in which the second offers at least equal the selling prices transmit availability signals (Patel col. 8, lines 48-56, "The consumer may accept a service plan offered in response or...may choose to accept a lower level of resources...or pay an offered price for the specified level of wireless.").

20. With respect to **Claim 14**:

Patel discloses wherein the second offer is of greater value than the first offer (Patel col. 8, lines 48-56, "The consumer may accept a service plan offered in response or...may choose to accept a lower level of resources...or pay an offered price for the specified level of wireless.").

21. With respect to **Claim 15**:

Patel discloses wherein the second offer is of smaller value than the first offer (Patel col. 8, lines 48-56, "The consumer may accept a service plan offered in response or...may choose to accept a lower level of resources...") (Examiner notes it is implicit within the reference that to accept a lower level of resources would be contingent on a second offer being of greater value than the first offer, or the consumer would have otherwise accepted the first offer.).

22. With respect to **Claim 16**:

Hubschnieder discloses a telematic base exchanging telematic data with the system nodes and including a model for forecasting traffic based on the telematic data (Hubschnieder [0010], "Such information makes it possible for the central unit to make statistical analyses, such as for example the traffic density at particular times of the day or at particular weekdays, or traffic relations between particular locations. This information naturally is then available for future inquiries by vehicle units.").

23. With respect to **Claim 17**:

Hubschnieder discloses a motor vehicle navigation system, which accounts for communication and transaction costs incurred when information (telematic information) is actually requested. Additionally, Hubschnieder also discloses an accounting mode which takes into account the type of information transmitted. This allows the system to grant a credit for driver initiated, active transmission of traffic conditions (Hubschnieder [0021]). Hubschnieder also discloses the acquisition of telematic data collecting telematic data originating from at least one vehicle traveling along a traffic route (Hubschnieder [0001] and [0021]), the system comprising:

a system node transmitting a first polling signal (Hubschnieder [0028],
"central unit"); and

a probe detector on the at least one vehicle, collecting telematic data and
responsive to the first polling signal (Hubschnieder [0005], "equipped with a
global positioning system (GPS)",

Hubschnieder does not explicitly disclose where the first polling signal includes
an offer, and the probe detector comparing the first offer to a selling price of the telematic
data collected by the probe detector and, only if the first offer at least equals the selling
price, transmitting an availability signal, the availability signal including an assent to sale
of at least some of the telematic data collected, to the system node.

However, Patel teaches where the first polling signal includes an offer (Patel col.
2, lines 5-34, "a wireless communication network"), which compares a first offer to a
selling price of the wireless communication device (Examiner is using the definition of
"probe detector" as found in applicant's specification which includes a cell phone), and
only if the first offer at least equals the selling price, transmitting an availability signal,
including an assent to sale of at least some of the telematic data, to the system node
(Patel col. 2, lines 5-34, "In this embodiment, the availability of the wireless service is
determined at the geographic region at the specified time, bandwidth, type and/or price.
Terms in the response may include additional or different time, price, type of service
and/or bandwidth terms for the wireless service. The terms may be negotiated between
a consumer or agent for the consumer and a bandwidth provider such as a network or
service provider or agent for the network or service provider.).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the motor vehicle navigation system of Hubschnieder with the method and system for brokering bandwidth in a wireless communication network of Patel in order to effectively negotiate the bilateral transfer of telematic information between the system node and the vehicle at the best price for the consumer. This conglomeration, unbeknownst to a consumer would lower the consumer's bill by achieving the best price for the telematic information procured by his system.

24. With respect to **Claim 18**:

Patel discloses receiving the availability signal at the system node (Patel Fig 1); and selectively transmitting one of a release signal and a second polling signal from the system node in response to the received availability signal, the release signal indicating acceptance of the sale of at least some of the telematic data, and the second polling signal including a second offer, different from the first offer (Patel col. 8, lines 57-64, "...if an agreement is reached...The wireless services may be requested in real-time for immediate use...").

25. With respect to **Claim 19**:

Hubschnieder discloses receiving a release signal of the system node at the probe detector; and transmitting at least some of the telematic data from the probe detector to the system node in response to the release signal (Hubschnieder [0021], "The data may be transmitted by protocols..."), the system node providing a content

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credit in exchange for the telematic data transmitted grant a credit for driver initiated, active transmission of traffic conditions (Hubschnieder [0021]).

26. With respect to **Claim 20**:

Hubschnieder discloses wherein the system node includes a predictive traffic model for forecasting traffic and including transmitting traffic forecast to a user interface of the vehicle in exchange for a content credit from the vehicle (Hubschnieder [0010], "Such information makes it possible for the central unit to make statistical analyses, such as for example the traffic density at particular times of the day or at particular weekdays, or traffic relations between particular locations. This information naturally is then available for future inquiries by vehicle units.").

Response to Arguments

27. Applicant's arguments filed 6/05/07 have been fully considered but they are not persuasive.

28. With regard to applicant's argument that there is no teaching nor suggestion in either publication for the combination of Hubschneider with Patel, Examiner respectfully disagrees. Under the new KSR standard, the teaching, suggestion, or motivation may be found in the prior art, in the nature of the problem, or in the knowledge of a person having ordinary skill in the art. Thus, not finding a teaching, suggestion or motivation in the reference does not imply non-obviousness. With this in mind, both Hubschneider and Patel deal with the transfer of data using a wireless network, the former a route navigation system and the later a system for brokering this data. It would have been

obvious for one of ordinary skill in the art at the time of the invention to have used the brokering system of Patel for other uses such as telematics data, because a staple of commerce is to maximize every possible avenue of revenue, and a system such as Patel would enable one to maximize the profitability of Hubschneider.

29. With regard to applicant's argument that the Hubschneider reference does not contain "embedded mobile station", Examiner agrees. The appropriate corrections have been made in the action.

30. With regard to applicant's argument that the Hubschneider reference makes little reference to GPS, Examiner respectfully disagrees. Hubschneider [0021] states, "The data may be transmitted by protocols such as for example WAP, HTTP, TCP/IP and transmission systems such as GSM, GPRS, or UMTS." Examiner notes that these protocols each meet the needs and limitations of applicant's specification.

31. With regard to applicant's argument that Hubschneider's GPS does not disclose the probe detector of applicant's invention, Examiner respectfully disagrees. Referring to page 12 of applicant's reply, Applicant admits that a probe detector is a "transponder, i.e., a device that receives a signal, and in response, transmits a signal."

32. With regard to applicant's argument that Patel bears no relationship to the buying and selling of information, Examiner respectfully disagrees. Referring to Dictionary.com, bandwidth merely represent the amount of data that can be send over a period of time. Therefore, it is irrelevant what type of data is being sent.

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Dictionary.com Unabridged (v 1.1) - Cite This Source

band · width  [band-width, -with] [Pronunciation Key](#) - [Show IPA Pronunciation](#)

-noun

1. *Telecommunications.* the smallest range of frequencies constituting a band, within which a particular signal can be transmitted without distortion.
2. the transmission capacity of an electronic communications device or system; the speed of data transfer: *a high-bandwidth Internet connection.*

[Origin: 1925-30; BAND² + WIDTH]

33. With regard to applicant's argument that Patel does not teach a negotiating process, Examiner respectfully disagrees. Referring to Patel, "available bandwidth may be auctioned between consumers or consumer requests auctioned between bandwidth providers." (Col. 3, lines 8-21), along with the disclosure of Hubschneider which states, "it is possible to grant a credit for driver-initiated, active transmission of traffic conditions..." [0021]) it would have been obvious to combine the references. Moreover, one of ordinary skill in this art would have been able to modify the Patel reference to incorporate incoming data pricing schemas since the data transfer is already bi-directional.

34. With regard to applicant's argument that Patel does not teach a second polling signal, Examiner respectfully disagrees. Referring to Patel, col. 8, lines 48-56, "Proceeding to step 102, the potential consumer receives a response from the bandwidth provider 28. The consumer may accept a service plan offered in the response or may negotiate details of the wireless service with the bandwidth provider 28 at step 104. Thus, if a consumer cannot obtain a requested level of wireless resources at a specified price, the consumer may choose to accept a lower level of resources at the specified price or pay an offered price for the specified level of wireless resources."

This outcome results in a newly negotiated package and does not end the transaction. Additionally, referring to Fig 7, at step 192, if no agreement is reached, step 182 is repeated. Examiner notes that if there is no agreement as to what the price is, another agreement can be brokered with a lower level of service, different from the first offer.

Conclusion

35. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Meyers whose telephone number is (571)272-7943. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSM
8/16/07

